

Committee on Resources, Subcommittee on Energy & Mineral Resources

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U.S. House of Representatives, Washington, D.C. 20515-6208 - - (202) 225-9297

Witness Statement

Statement of
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Before the
Committee on Resources
Subcommittee on Energy and Mineral Resources
U.S. House of Representatives
Field Hearing on
The Effect of Federal Mining Fees and Mining Policy
Changes on State and Local Revenues and the Mining Industry
April 20, 2001
Reno, Nevada

Introduction

Good afternoon, Congressman Gibbons and members of the Subcommittee. I am Tony Jensen, Mine General Manager at Cortez Gold Mines. I would like to thank the Committee for holding this field hearing in Nevada. This is particularly relevant because of the social and economic importance of mining in this state.

Cortez Gold Mines is a joint venture between Placer Dome and Kennecott Minerals. Both are internationally respected mining companies with numerous worldwide operations. In the United States, Placer Dome also operates the Bald Mountain and Getchell Mines, both in northern Nevada, and the Golden Sunlight Mine in Montana. We employ approximately 850 people in the United States, and about 12,000 worldwide.

More importantly, Placer Dome and Cortez Gold Mines have a long history in Eureka and Lander Counties. Mining has occurred in the Cortez District since the late 1800s and Placer Dome has been a part of the fabric of the area since the mid-1960s. For nearly two generations, we have contributed to the economic vitality of northeastern Nevada and, with the discovery and subsequent permitting and construction of our new Pipeline and South Pipeline ore deposits and mill, Cortez Gold Mines has the potential to continue contributing to the social well being of Nevada well into the next generation.

Gold mining is an important economic base for many rural communities, providing thousands of high-quality and high-paying jobs. Cortez Gold Mines currently employs 385 dedicated men and women who have produced over one million ounces of gold in each of the last three years. We have completed this feat without a single lost time accident, encompassing over three million man-hours; an accomplishment any business would be proud of.

Cortez Gold Mines' operation in Lander and Eureka Counties has a total annual payroll of over \$23 million, including over \$3.4 million in payroll taxes. Cortez is an extremely important corporate citizen in rural Lander County, having contributed \$1.5 million in annual property taxes and an annual average of \$10 million over the last 3 years to the state through the Net Proceeds of Mines taxes, approximately half of which is returned to the county. In addition, Cortez pays approximately \$750,000 per year to the Bureau of Land Management (BLM) in claim holding fees.

Cortez' Pipeline Project Permitting

The past eight years have been a difficult period for mining in the United States, particularly for those of us operating on public lands managed by the BLM. Cortez Gold Mines is one of the largest mines in the United States that operates almost entirely on public lands and is therefore very susceptible to any change in public lands regulations. Today I want to focus on the potential future impacts to our operation of the Millsite Opinion, a subsequent Instruction Memorandum and the Yarnell Opinion that were issued in the final days of the last Administration

First, let me offer some background. After the discovery of the Pipeline ore deposit in 1991, continued drilling outlined sufficient economic mineralization on which to construct a mine in near proximity to where we had mined since the 1960's. An initial mine plan of operations was submitted to the BLM in 1992 and, after the development of an Environmental Impact Statement, public hearings and comment opportunities, technical revisions and the posting of financial guarantees for reclamation and water monitoring, construction on the \$270 million project commenced in March 1996; culminating an exhaustive, comprehensive, and costly permitting process spanning four years.

Continued drilling during this period outlined additional economic mineralization, and an Amendment to the Pipeline Plan of Operations was submitted in September 1996. This Plan was approved in June 2000, almost four years after its original submittal. Total costs to develop this plan of operations from original submittal through approval were in excess of \$5 million, most of which was spent on technical studies to support the Environmental Impact Statement.

Subsequently, the South Pipeline Amendment has been under appeal from local and national environmental groups since its approval. In addition, the Appellants filed a Petition for Stay in an attempt to immediately shut down the mine. The Petition for Stay was denied on January 9, 2001 but the appeal will likely continue for years. Included in the appeal and Petition for Stay was a challenge to Cortez' claims status relative to the

Millsite Opinion issued by the former Solicitor.

Cortez Gold Mines Mining Claim Situation

Like any prudent mining company, Cortez regularly evaluates its claim package relative to the existing and projected operational situations. Additionally, the extent of the operational facilities changes following construction, and some claims are relocated to match the current and reasonably foreseeable development. Cortez must continue to monitor its claim status and relocate claims as operational and geologic conditions mandate. The manner in which Cortez or any other responsible mining company holds claims must change over time to match the project facilities, geologic inferences, growth, and other factors, which cannot be predicted during initial stages of the operation.

Impact to Cortez of the Millsite Opinion and Instruction Memorandum

The Millsite Opinion, the January 10, 2001 Instruction Memorandum, and Yarnell Opinion have been attempts to administratively reinterpret land tenure rights established by the Mining Law. I will not go into details on the politics and legal issues raised by the former Solicitor's efforts; this Committee has heard abundant testimony by others on those issues.

I will, however, address the past and potential future impacts to Cortez of the recent administrative actions relative to the millsite – lode claim question.

First, it has impacted Cortez' permitting efforts. Appellants continue to use the Millsite Opinion as an appeal point, even though it is clear upon review that our claim maintenance activities did not violate the Mining Law, the Millsite Opinion, or any aspect of the recent legislation passed by Congress; namely, the Emergency Appropriations Act of 1999 and the Consolidated Appropriations Act for Fiscal Year 2000 - both of which addressed the Millsite Opinions.

Nonetheless, Appellants use convoluted time frames and unsupported accusations of "claim manipulation", conveniently encouraged by the former Solicitor's last minute directives, to circumvent Congress as well as defy common sense, and responsible claim management practices.

It is also important to point out that land tenure issues are not part of the National Environmental Policy Act (NEPA). However, those radically opposed to mining will continue to abuse that process by using the Millsite Opinion to try and shut down mines.

Secondly, and particularly troubling to Cortez and others trying to develop resources on public land, are the last minute Instruction Memorandum and opinion issued by the former Solicitor immediately before leaving office. In a flurry of activity, the former Solicitor and Interior Secretary issued the Yarnell Opinion and the BLM issued IM No. 2001-077, contradicting the obvious intent of Congress in enacting the FY 2000 Appropriations Act. Citing no authority, they take the position that any location or relocation of claims requires that a modification to the plan of operations be undertaken. If these legal interpretations are allowed to stand, this means that we have a rather dangerous marriage of land tenure issues with NEPA. The BLM currently has the authority to perform claim examinations and these Interior Department mandates will only further serve to abuse the NEPA process and render more burden on an already overloaded BLM structure.

This is unacceptable, and will impact our ability to permit and operate on public lands. It will impact our ability to maintain our claims as needed to evolve with project development. And it will, I contend, lead to

increased chaos in permitting, never-ending appeals and lengthy legal battles, *none of which will contribute to improved environmental protection or social progress.*

Request for Committee Support

The future ability of Cortez Gold Mines, indeed any mine, to operate on public land is in jeopardy for a variety of reasons, including the millsite – lode claim issue that I have focused on in this testimony. I ask you to urge the new Department of Interior Secretary and Solicitor to review and rethink the legality and purpose of the original Millsite Opinion as well as the Instruction Memorandum and Yarnell Opinion both of which were issued days before the end of the last Administration.

Cortez stands ready to provide you with additional details upon your request, and I thank you for the opportunity to provide testimony here today.

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